

1 A I'm not certain, I mean -- did I add
2 anything on -- when we say here this is the list we
3 used yesterday -- so that would have been referring to
4 January 29, 1998. I'm not certain on January 29 that
5 anything was added to the public file or removed. I'm
6 not sure what -- like I say I don't know what clean up
7 was then.

8 Q Well, focusing on January 29, do you
9 recall this effort taking minutes, taking hours -- I
10 mean people opened the drawer, looked at it and closed
11 it -- I mean, what happened?

12 A On that date I don't recall. If it was
13 referring specifically to January 29 there where I
14 said -- where I used the word yesterday. I'm not sure
15 if we used that at that -- maybe the list was used as
16 sort of a checklist and we checklist that list against
17 what was in the drawer.

18 Q A process which could have taken hours,
19 couldn't it?

20 A It could have, it could have. And again
21 I don't know -- like I say, obviously I wasn't -- Ana
22 was involved, Ana Perez was involved and Jeff was

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1 involved apparently from the way I wrote this memo, or
2 this note on the fax cover sheet. But I don't know if
3 it would have taken hours or a half hour or what?

4 Q Well, you've got three people now dealing
5 with this drawer. You don't remember how the three of
6 you interacted, whether you took the contents of the
7 drawer and moved it someplace or were you all hovering
8 by the drawer, or what are you doing?

9 A I don't at this point have a real
10 recollection of exactly the interaction that we had on
11 that regarding, regarding that.

12 Q Did you reorganize the public file?

13 A I don't know that if we reorganized it or
14 just, or were just looking to see if everything that
15 was apparently whatever list we used to check the
16 public file, our public file against, was, was, was in
17 there, or if we had things in there that didn't need
18 to be in there.

19 Q Did you take an inventory?

20 A I don't recall us taking an inventory, no.

21 Q Did you take anything out?

22 A I suspect we would've taken something out

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1 if it wasn't listed. If it was in the public file but
2 according to whatever list we had it didn't need to be
3 in the public file.

4 Q Now, EB Exhibit 7 --

5 JUDGE SIPPEL: Can I ask a question of
6 this before you -- I just want to try and get a
7 clarification. In the context of your cleaning up,
8 these three people, including yourself, was there any
9 discussion about it seems like we're missing documents
10 here, or has somebody been taking documents out of
11 here? Did you get any kind of a -- do you have any
12 kind of a recollection of that kind of a conversation
13 going on?

14 THE WITNESS: Your Honor, I don't -- at
15 that time, if it would have been --

16 JUDGE SIPPEL: Not the would've's. I
17 mean, it doesn't have to be -- I don't care whether it
18 was that day, date, but in the context of that event,
19 this is an event. I'm assuming that you were telling
20 the truth when you sent this fax to Mr. Sanchez.

21 THE WITNESS: Yes.

22 JUDGE SIPPEL: All I'm asking you to do is

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1 to flesh out a little bit of what the truth is. So
2 did you have -- do you recall -- you do recall -- do
3 you recall having any of those kinds of conversations?

4 THE WITNESS: Subsequent to the GGPR
5 challenge, we looked at the station, Jeff looked in
6 the public file and apparently there was an ownership
7 report that should have been as part of the public
8 file that didn't appear to be in it. And at that time
9 the full thrust of our -- the -- of our, of our
10 responses to GGPR was that these are people that were
11 going into files and taking things out --

12 JUDGE SIPPEL: But that's --

13 THE WITNESS: And so we --

14 JUDGE SIPPEL: I'm sorry, go ahead.

15 THE WITNESS: And so we did put things in
16 and create -- we prepared documents, an ownership
17 report, I know at least one was prepared and signed in
18 December of 1997 and put in. Whether -- and I don't
19 recall after -- if on this date, after those documents
20 were filed with the FCC, which was late January, this
21 would have been after that --

22 JUDGE SIPPEL: This was -- so this was

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1 after the fact --

2 THE WITNESS: This was after --

3 JUDGE SIPPEL: That particular event.

4 THE WITNESS: This was after that fact.

5 I don't know that the exact date that the filing was
6 made in January was January -- later -- was before
7 that, I believe.

8 JUDGE SIPPEL: All right. So when you say
9 the filing was made, you mean your opposition, or --

10 THE WITNESS: Our opposition to the GGPR
11 petition.

12 JUDGE SIPPEL: Okay.

13 THE WITNESS: I know -- I think we can
14 probably figure out what happened then.

15 JUDGE SIPPEL: Well, that's -- the point
16 is is that was done before January 30. Correct?

17 THE WITNESS: That was done before January
18 29.

19 JUDGE SIPPEL: Well, I'm looking at this
20 date that says January 30. If you want to use 29 as
21 a point of reference, I don't care.

22 THE WITNESS: Okay.

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1 JUDGE SIPPEL: Okay?

2 THE WITNESS: Okay.

3 JUDGE SIPPEL: That week. So all of that
4 question about was somebody in these files was fleshed
5 out before this week of January 30 to the extent that
6 you can recall.

7 THE WITNESS: To the extent that I know,
8 yes.

9 JUDGE SIPPEL: Yes, to the extent that you
10 can recall.

11 THE WITNESS: Yes.

12 JUDGE SIPPEL: But it was a definite
13 subject of conversation --

14 THE WITNESS: Yes.

15 JUDGE SIPPEL: That you can specifically
16 recollect that occurred prior to January 30.

17 THE WITNESS: Oh, the whole issue -- yes.

18 JUDGE SIPPEL: Well, it doesn't have to be
19 a whole issue, but you -- it happened, then, right?

20 THE WITNESS: Yes.

21 JUDGE SIPPEL: It happened. Okay. Now,
22 now you say that you've been you say to clean up the

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1 public file, so, well, I guess you really answered my
2 question. That subject matter didn't need to come up
3 because you had already had that conversation and here
4 you were just trying to -- I don't what you were
5 trying to do exactly, but to the extent that you can,
6 that you can help us understand this, this would be
7 very, very helpful.

8 THE WITNESS: Yes. I don't recall --
9 since -- again, it was not -- the public file wasn't
10 a matter that I took initiative on. If I did it, I
11 did it with, with Jeff and apparently with Ana. And
12 I don't know what --

13 JUDGE SIPPEL: All right. Now follow me
14 on this, because it appears from this fax cover that
15 you were some kind of a point person on this. You were
16 the one that was getting back to Mr. Sanchez. Now,
17 he's the principal of this law firm, right. For which
18 you are paying a decent amount of money to represent
19 you, okay?

20 This is not being sent by Mr. Ramirez.
21 This is being sent by Bill Helgeson, and it sounds,
22 from the tone of it, that you were -- that he is going

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1 to rely on you to tell him these things. He being Mr.
2 Sanchez.

3 So this puts you in a little different
4 context, and it's -- I'm still having enormous
5 problems with this concept of yours that you didn't
6 know what you were doing but you were passing this
7 information back and forth.

8 When I say that you didn't know what you
9 were doing, you didn't know what you were doing in the
10 context of what was required of you to do by the FCC
11 rules, and yet you're funneling this information back
12 and forth and coming up with all these conclusions
13 about cleaning up the public file.

14 You see, when I read something like that,
15 I'm saying you're cleaning it up, you're meaning
16 either one of two things. Well, let's, let's keep
17 away from the ridiculous, but it means to me when
18 you're telling a lawyer that in the context of these
19 issues after you've filed a -- you know that you've
20 got a protest filed against your license, you've
21 opposed it.

22 You know that you have to get your act in

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1 order here. And you're telling him you've cleaned it
2 up. Well that, to me, would imply that you've done it
3 and somewhere in the back of your minds you got these
4 requirements that the FCC has about what it -- what
5 does it take to clean up a public information file.

6 But I can't -- I take it that you cannot
7 relate to that in your testimony. You haven't done it
8 yet.

9 THE WITNESS: I did, Your Honor -- I did
10 what -- if Jeff Ramirez requested --

11 JUDGE SIPPEL: No, no, no. I don't want
12 to know if he asked it that you would have done this.
13 I want to know what you did, what you were thinking,
14 what was your thought process at that time?

15 THE WITNESS: Well, my thought process was
16 to do whatever Jeff requested that I do.

17 JUDGE SIPPEL: All right. That's all.
18 I can't do anything more.

19 THE WITNESS: And --

20 JUDGE SIPPEL: That's okay. Well, go
21 ahead, you finish what you were saying. I'm sorry.

22 THE WITNESS: I assumed that Jeff knew

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1 what was required, and so if he asked me to do
2 something I would have done it. That was the source
3 of my knowledge about the -- what should and shouldn't
4 be in the file, was what Jeff had told me.

5 JUDGE SIPPEL: Well, I don't, I don't mean
6 to be arguing with you, but I don't, at this -- I just
7 don't understand this, because I'm not expecting that
8 you knew the regulation chapter and verse, but I would
9 -- it's hard for me to understand why by this point,
10 that is by January of '98, after all this has in
11 effect blown up, this attack on your station license -
12 - that you didn't have at least some kind of an
13 understanding of what you were trying to comply with,
14 regulation-wise.

15 Something over and above that you did
16 whatever Jeff asked you to do. I'm just having
17 trouble with that, and I'm asking you to try and help
18 me with that, and if this is the best you can do, then
19 we'll go on to other things.

20 THE WITNESS: I knew that the public --
21 there was a public inspection file and it needed to be
22 complete. That was -- and I would assist Jeff in --

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1 all right -- and I wasn't, again, I wasn't sure what,
2 what the word "complete" meant, and so I apparently
3 showed Ernie this list, and I faxed him, this is what
4 we used to make the public file complete.

5 We apparently, Ana and Jeff, and I -- and
6 I was asking him, what did he think about this list,
7 is this a good list. That's apparently the, the
8 motivation for sending him this. I had the question
9 there on it.

10 JUDGE SIPPEL: Yes. You have asked him to
11 respond to it.

12 THE WITNESS: Yes.

13 JUDGE SIPPEL: I'm going to turn this over
14 to Mr. Shook to continue along with this. I'm just
15 trying to be very honest with you. I mean, you're up
16 here for two days now and I'm having difficulties.
17 And I'm asking you to help me if you can.

18 THE WITNESS: Okay. Yes.

19 JUDGE SIPPEL: I know that you -- I'm not
20 asking you to tell me what I'd like to hear. I'm
21 simply asking you to think hard about what you're
22 being asked.

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1 THE WITNESS: Okay.

2 JUDGE SIPPEL: All right?

3 THE WITNESS: Okay.

4 JUDGE SIPPEL: Okay. Go ahead, Mr. Shook.

5 MR. SHOOK: Mr. Helgeson, I'm afraid this
6 raises at least another question or two. In terms of
7 the list, do you have any recollection whether the
8 list that's being referred to is something that you
9 had received from somebody else or a list that was
10 prepared internally at the station?

11 THE WITNESS: I recall that it would've
12 been a list from some trade organization or something
13 that we had gotten and were using to check off that
14 list regarding complete FCC public file and what our
15 public -- what was in our public file.

16 BY MR. SHOOK:

17 Q Right. Now, in EB 7, page 11, there's a
18 reference January 30, 1998, it's item 2522. I'll read
19 it to you and then, of course, you can look at it.
20 It's -- it involves Mr. Sanchez. It was for a very
21 brief period of time, .17 hours, and the item reads
22 "Conference with Mr. Helgeson re: status of Golden

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1 Gate matter and discussion of public file
2 requirements".

3 MR. PRICE: I'm sorry, can you tell me the
4 page number again?

5 MS. LEAVITT: It's page 12 in the Bates
6 system, or 000251 in the SFUSD.

7 MR. PRICE: It's this one here? I've got
8 it. Thank you.

9 MR. SHOOK: Yes. EB 7, page 11.

10 JUDGE SIPPEL: Maybe while you're
11 answering that question, you might want to think in
12 terms of \$290.00 that was paid in connection with that
13 conference. It was a pretty important conference.

14 MR. SHOOK: Well, Your Honor, not to be
15 rude here, but the \$290.00 represents the rate that
16 Mr. Sanchez would have charged for an entire hour, but
17 this particular conference, if you will, used only .17
18 hours, and the charge resulting was \$49.30.

19 JUDGE SIPPEL: All right. To that extent,
20 I stand corrected.

21 MR. SHOOK: In any event, it appears that
22 not only did you send Mr. Sanchez a fax, but there was

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1 a conference of some kind. I, I take it that this was
2 a telephone call between you and Mr. Sanchez?

3 THE WITNESS: I would -- yes, he was in
4 Washington -- he was at his office, yes.

5 BY MR. SHOOK:

6 Q When it says here discussion of public
7 file requirements, does that help you recall in any
8 way what it was that the two of you talked about in
9 terms of the public file?

10 A This telephone call would've been
11 subsequent to this fax being -- it was on the very
12 same day as this fax that I sent him. And what I can
13 only surmise from this is that he called me regarding,
14 regarding my fax that I had sent him. And we
15 interacted on that.

16 Q Your recollection is that he called you
17 rather than the other way around?

18 A That's my recollection. My recollection
19 is that, is that I sent him the fax and it had on the
20 bottom "what do you think?", and then he called me.

21 Q Now, just as a matter of practice, were --
22 do you -- were you aware of whether or not Mr. Sanchez

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1 would bill you for long distance telephone calls that
2 he made to you in addition to the charge that he would
3 have for his lawyer time, that he would also bill you
4 for the call? Did he do that?

5 A I don't recall what the, what the
6 procedure was regarding if he made the call or I made
7 the call. Although I -- that I don't recall, whether
8 there was a distinction in billing.

9 Q Well, I mean, did you ever receive a
10 request to pay long distance telephone bills for the
11 Sanchez Law Firm?

12 A While I prepared paying the invoices for
13 the Sanchez Law Firm, I don't recall them specifically
14 broken out -- telephone charges being broken out as
15 opposed to the billable time.

16 Q All right. Next I want to direct your
17 attention to Bureau Exhibit 11.

18 A Okay.

19 Q Now, what understanding do you have as to
20 why, on March 8, or, excuse me, March 9, 1998, Mr.
21 Sanchez is apparently faxing you something that
22 concerns an NAB public file memo?

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1 A I've reviewed this recently, and what I
2 can recall is that he had sent me another list -- he
3 had sent me some document, apparently from the NAB,
4 National Association of Broadcasting, about public
5 file -- what, again, regarding what goes towards
6 keeping up and what would properly be in a public
7 file.

8 Q Now, the document that we have is two
9 pages long. We do not have whatever the NAB memo is,
10 and apparently, from the way the fax was put together,
11 the NAB memo could've been as many as six pages. Do
12 you recall receiving such a memo?

13 A At this time I don't recall receiving the
14 memo, but I've -- like I say, I've reviewed -- I've
15 seen this cover sheet since -- in preparing in the
16 last month or so. So all I -- the only thing I could
17 come up with as far as what it was was some NAB --
18 again, a National -- NAB document regarding proper
19 public files.

20 Q Do you have any recollection about -- of
21 reading, on or about March 9, an NAB memo of around
22 six pages in length?

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1 A I don't recall reading the memo.

2 Q Now, just to clarify things, at that time,
3 your eyesight -- there was no problem, right?

4 A No, that -- 1998 is --

5 JUDGE SIPPEL: You did know -- what does -
6 - you know what the NAB stands for.

7 THE WITNESS: Yes, I do.

8 JUDGE SIPPEL: What is it?

9 THE WITNESS: National Association of
10 Broadcasting.

11 JUDGE SIPPEL: Okay. I'm asking this of
12 counsel, any counsel that wants to answer the
13 question, but isn't it possible to get from the
14 Sanchez office or from some place an NAB memo on
15 public files that was, that was in effect at that
16 time?

17 MS. REPP: Your Honor, we received from
18 the Sanchez Law Firm their entire file on the matter,
19 so there was no attachment and they did not have any
20 further materials in their file.

21 JUDGE SIPPEL: Well, I mean, couldn't Mr.
22 Sanchez or somebody in there reconstruct -- I mean,

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1 that's not a -- to me -- it doesn't seem to me to be
2 a very difficult task. 1998 is a while ago, but NAB,
3 don't they have some --

4 MS. REPP: The NAB does maintain archives.
5 With some difficulty we had obtained from the NAB a
6 copy of their 1997 memo on what to keep and what to
7 toss from the public inspection file. We could ask
8 the NAB again to look into their archives. I don't
9 know what version we would be asking for, because I
10 don't know what version Mr. Sanchez was sending.

11 JUDGE SIPPEL: Well, that's true, that's
12 true, but it's eight pages, and the date of this fax
13 is March 9, 1998. I think the assumption might be
14 that whatever NAB had that was in effect at that time
15 --

16 MS. REPP: We can make the request. They
17 did not immediately turn around with our last request.

18 JUDGE SIPPEL: Well -- you can tell them
19 that it's in the context of this case and it's in
20 litigation and that it's, that it's, that the
21 presiding ALJ thinks it's important.

22 MS. REPP: I'll try that.

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1 JUDGE SIPPEL: Try it. I don't know -- do
2 you, do you, do you agree -- would you be interested
3 in seeing that document, Mr. --

4 MR. SHOOK: I think it would be helpful.
5 And it's just another puzzle piece.

6 JUDGE SIPPEL: Yes, I understand that.
7 But this memo in and of itself is pretty important.
8 I mean, I'm sorry, yes, well, the memo from Mr.
9 Sanchez. But without the attached NAB memo, as you
10 say, it was only a piece of the puzzle.

11 MS. LEAVITT: Your Honor, just to update
12 you, somebody from the Enforcement Bureau is going to
13 the library, the FCC library, right now to see if
14 there's any copy of the NAB Broadcast Handbook there,
15 to see if we can obtain the '97 -- if we -- any
16 version that predated 3/9/98.

17 JUDGE SIPPEL: All right. Well, let's
18 see, I mean, let's see what we can do. We're not
19 going to stop the train to, to, to, to pursue that,
20 but let's see what we can do with it.

21 And I'm trying to think in terms of how
22 that could be -- maybe we would ask Mr. Ramirez and

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1 Mr. Helgeson to review it and, and prepare some kind
2 of declaration in terms of what they recall,
3 understand or how they -- what they can recall with
4 respect to a document like that. I mean, the
5 requirements can't be that much difference between two
6 -- '97 and '98.

7 MR. SHOOK: Right. Your Honor, the only
8 caveat that I would like to add to that, and I'm sure
9 Ms. Repp would second this, is that Mr. Ramirez had
10 left by this time, so as we understand the situation,
11 and I could certainly follow up with a question if
12 that's needed, but Mr. Helgeson was the stand-in
13 general manager at this point.

14 JUDGE SIPPEL: I see. Oh, I mean, you see
15 -- I was thinking you were saying that he's, he's,
16 he's left the hearing. He left the station at that
17 time.

18 MR. SHOOK: Yes, sir.

19 JUDGE SIPPEL: So he would not have been
20 privy to any of this anyway.

21 MR. SHOOK: Right.

22 JUDGE SIPPEL: Thank you for bringing that

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1 -- thank you for reminding me of that, yes. Then we
2 would deal only with Mr. Helgeson on that.

3 MR. SHOOK: I did have one other question
4 in this area before moving on.

5 JUDGE SIPPEL: Oh, yes, I'm going to let
6 you, I'm going to let you -- I'm just trying again --
7 trying to understand why a document like that would
8 not -- why they would not have been able to come up
9 with that document. Either between the station or the
10 Sanchez Law Firm. I'm just thinking out loud to
11 myself. Well, okay. Whatever. Let's move on. I'm
12 sorry. Go ahead.

13 MR. SHOOK: Thank you for pursuing that.

14 MR. PRICE: Your Honor, I know Mr. Shook
15 indicated he has some more questions. I don't mean to
16 cut him off in any way. Were you anticipating a
17 morning break if in fact he has a couple more
18 questions?

19 JUDGE SIPPEL: Only if anybody needs one.
20 I intend to go until 12:00 and then we'll break for
21 lunch. If everybody's okay?

22 MR. PRICE: Only if -- does the witness

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1 need -- no? I was only asking on the witness's behalf
2 and he doesn't need one. It's fine.

3 JUDGE SIPPEL: All right. Anything --
4 what's your wishes?

5 THE WITNESS: I'm fine.

6 JUDGE SIPPEL: You're okay?

7 THE WITNESS: I'm fine.

8 JUDGE SIPPEL: You're going to do it?
9 We're almost about an hour away from a nice lunch.

10 THE WITNESS: Okay.

11 JUDGE SIPPEL: All right, let's go.

12 MR. SHOOK: Thank you. Thank you very
13 much.

14 Now, Mr. Helgeson, according to this
15 Bureau Exhibit 11, on March 9, 1998 you received an
16 NAB public file memo from the Sanchez Law Firm. Do
17 you recall doing anything with respect to the public
18 file as a result of receiving the memo?

19 THE WITNESS: At this time I've reviewed -
20 - seen the document and recently reviewed it, and I
21 can't recall at that time doing -- looking at it and
22 taking any action based on having seen that. At that

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1 time, like you mentioned, Jeff Ramirez had left the
2 station, I was standing in, waiting for the school
3 district to come up with -- find a new permanent
4 replacement for Jeff.

5 And my sense would have been after seeing
6 it to leave it for the next general manager. Put it
7 in -- put it away or leave it on -- out for them or
8 whatever. I was just taking care of the station on a
9 day-to-day basis, and that's -- I had plenty to do.
10 So I think I would've, after looking at it, I don't
11 recall doing any -- taking any action other than just
12 putting it aside and leaving it to the next general
13 manager.

14 BY MR. SHOOK:

15 Q The next exhibit I'd like to show you,
16 direct your attention to, is Bureau Exhibit 12.

17 A Okay.

18 Q Now, to put this in context, this document
19 is apparently arriving four days after the document
20 that we just discussed, Bureau Exhibit 11, and it says
21 the subject is Model Program Issue List Example, and
22 the little note reads, "Bill, attached is the Model

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1 Program List I promised to send you. Ernie". Now,
2 according to the fax cover sheet, the total number of
3 pages in the fax was three. We have two of them. The
4 third page apparently is the Model Program List
5 itself. Do you recall receiving such a list from Mr.
6 Sanchez?

7 A I've reviewed this document in preparing
8 for the hearing, and at this time I can't recall
9 actually -- unless I saw it I couldn't recall seeing
10 it. If I got it, I would've probably left it for the
11 general -- put it aside, going -- I would've reviewed
12 it and put it aside. And so for the next time we
13 needed to put a quarterly issues together, the general
14 manager would have it.

15 Q From a timing standpoint, when did Mr.
16 Johnson actually become the station's general manager?

17 A It was in 1998, I, I don't have the exact
18 date. I want to say the middle of the year. Whether
19 it was specifically July 1 I can't recall that.

20 Q Well, after Mr. Ramirez left, you were
21 stand-in general manager for what, at least a period
22 of four or five months?

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1 A It would've been from February through
2 about middle of the year, yes. Something like that.

3 Q All right. What understanding do you have
4 as to why Mr. Sanchez is sending you a Model Program
5 List in March of 1998?

6 A My understanding -- from looking at this,
7 trying to come up with my understanding, perhaps we
8 had some question about what made up the Model
9 Programs List. And so he was sending over what he
10 believed was a good example.

11 Q Now, I think you testified that you got
12 this list and set it aside for the station's general
13 manager, who had not yet been hired?

14 A That's what I believe I must have done.
15 Yes.

16 Q I mean, you don't recall doing anything
17 with it yourself?

18 A No. When this -- this came in March
19 something, March 13? I don't recall immediately
20 taking it and doing anything with it -- taking some
21 action on it.

22 Q Now, we've already talked about after Mr.

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